



2026:AHC:161931

HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT - A No. - 2081 of 2013

Sant Ram Gautam Constable

.....Petitioner(s)

Versus

State Of U.P.Thru Secy And Ors.

.....Respondent(s)

Counsel for Petitioner(s)	:	Bal Ram Ji Verma
Counsel for Respondent(s)	:	C.S.C.

Court No. - 34

RESERVED ON : 20.07.2026

DELIVERED ON : 04.08.2026

AFR

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Shri Vikram Bahadur Yadav, Advocate holding brief of Sri Bal Ram Ji Verma, learned counsel for the petitioner and Sri Anand Mani Tripathi, learned Standing Counsel for the State.

2. The instant writ petition has been filed seeking quashing of the order dated 13.02.2012, whereby the petitioner was dismissed from service. The petitioner has also challenged the order dated 30.04.2012 and 31.08.2012 passed by the appellate authority as well as by the revisional authority where by his appeal and revision has also been rejected.

3. Briefly stated facts of the case are that the petitioner was working as Constable at Reserve Police Lines, District Deoria in the year 2010. On 06.08.2010 the petitioner was given duty as NCC guard from the office of Police Lines Deoria. However, without any intimation to the department the petitioner became absent from his duty and thereafter he was found drunk in the police dress near the country-made liquor shop at Machchali Hatta Bazar, Deoria. Thereafter he remained absent for 12 days, 4 hours and 15 minutes and reported at Police Line on 18.08.2010 at 12:45. For the aforesaid allegations made against the petitioner, the disciplinary proceeding were initiated against the petitioner and the charge sheet dated

14.2.2011 was issued against the petitioner and the copy of the charge sheet was served upon the petitioner on 14.02.2011 itself which was duly acknowledged by the petitioner. Thereafter on 20.02.2011, the petitioner sought further time of 15 days from 24.02.2011 to submit his reply to the charge sheet. Thereafter, by the letter dated 16.03.2011 the time was extended to submit the reply to the charge sheet till 22.03.2011. The said notice was sent through the Inspector Police Line Deoria who reported on 29.03.2011 that the petitioner is absent since 18.03.2011. Since no reply was submitted by the petitioner, the Inquiry Officer proceeded with the inquiry and 16.05.2011 was the date fixed for examining the witnesses and notice thereof was sent to the petitioner. In response thereto, the petitioner appeared on 16.05.2011.

4. Thereafter, various dates were fixed for concluding the inquiry proceedings with due intimation to the petitioner and the petitioner absented himself from the proceedings. Thereupon, inquiry was concluded and the Inquiry Officer held that the charge leveled against the petitioner are fully proved in the inquiry report dated 31.12.2011. Thereupon, the show cause notice along with the copy of the inquiry report was issued to the petitioner on 19.01. 2011 by the Superintendent of Police, Deoria requiring the petitioner to submit his explanation by 3.2.2012. However, on 03.02.2012 the petitioner sought additional time to submit his explanation, therefore, 10 days further time was granted to the petitioner to submit his reply. However, since the petitioner did not submit his reply despite opportunity granted to him, the disciplinary authority authority has proceeded to pass the impugned order dated 13.02. 2012, whereby the petitioner was dismissed from service.

5. Being aggrieved by the same, the petitioner has filed the appeal before the appellate authority which was also rejected vide order dated 30.04.2012. Thereupon, the petitioner has preferred the revision before the revisional authority which was also rejected vide order dated 31.08.2012. Being aggrieved by the same, the instant writ petition has been filed by the petitioner.

6. Learned counsel for the petitioner submits that in the instant case, the petitioner has not been granted sufficient opportunity and the explanation submitted by the petitioner to the show cause notice has not been

considered by the disciplinary authority while passing the punishment order and it is further argued that while issuing the show cause notice the Inquiry Officer has recorded his findings and has also recommended the punishment with which the disciplinary authority has already agreed. Therefore, the impugned punishment order is vitiated. In support of his submission, he has relied upon the **judgment dated 08.08.2019** of Division Bench of this Court in **Jai Mangal Ram versus State of UP and 4 Others**; 2023 LawSuit (All) 1786 ;Neutral Citation 2023:AHC:232617. He has also relied upon the **judgment dated 8.2.2019** of a Coordinate Bench of this Court in **Writ A No. 39792 of 2012, (Krishna Kumar Mishra versus State of UP and others)** as well as the **judgment dated 06.02.2018** in **Writ A No. 23660 of 2010, (Umesh Babu versus State of UP and others)**.

7. Per contra, learned Standing Counsel for the respondents submits that despite opportunity granted to the petitioner, initially, the petitioner did not submit his reply to the charge sheet though he appeared in the proceeding before the inquiry officer. However, later he absented himself from the inquiry proceedings despite due intimation to him. Thereupon, the inquiry was concluded ex-parte against petitioner and the charges leveled against petitioner were found proved. Thereupon, along with the copy of the inquiry report a show cause notice was issued to petitioner, wherein the disciplinary authority has affirmed the findings recorded by the inquiry officer with which he is in agreement. Thereafter, by proposing the punishment of dismissal from service a show cause notice was issued to petitioner and the petitioner failed to respond to the said show cause notice despite the opportunity granted to him even the petitioner failed to file any explanation within the extended opportunity granted to him on his own request.

8. It has further submitted by learned standing counsel for State that the reply to the said show cause notice which is alleged to have been submitted by the petitioner infact has never been submitted before passing the impugned punishment order dated 13.02.2011 and the copy of the alleged reply to the show cause notice, which has been annexed along with this petition, is an afterthought creation by the petitioner, which was never submitted prior to the passing of the punishment order. Therefore,

learned standing counsel for State submits that there is no illegality in the procedure adopted while concluding disciplinary proceeding against the petitioner and there is no illegality in the impugned punishment order against the petitioner, which has been passed on the basis of the proven charges of misconduct and indiscipline against the petitioner as well as his unauthorized absence. In such view of matter, he seeks dismissal of the instant petition.

9. Having heard learned counsel for the parties, this court has carefully gone through the record of the case. The facts of the case has already been briefly noted herein above. It is apparent from the record that on the allegation of unauthorized absence of the petitioner from duty from 06.08.2010 till 18.08.2010 and finding the petitioner in drunk condition in a public place while he was assigned the duty of guarding the NCC Guard, the disciplinary proceedings were initiated against the petitioner. During the inquiry proceedings after service of the charge sheet he did not respond to charge sheet, though he sought time to respond to the charge sheet. Thereafter, the inquiry officer has proceeded to record the evidence in the matter with due intimation to the petitioner. At the initial stage, though he appeared before the inquiry officer, but later he did not cooperate in the inquiry proceeding and thereupon the inquiry officer has proceeded with inquiry, examined the witnesses after due intimation to the petitioner despite that he did not appear to cross-examine the witnesses and only thereupon the inquiry was concluded against the petitioner ex-parte and the charges leveled against the petitioner was found proved.

10. Thereupon, the disciplinary authority, along with the inquiry report, has issued the show cause notice to petitioner, which was duly acknowledged by petitioner to have been received by him even then he did not submit the reply.

11. This court has taken note of the show cause notice which refers only to the extent that the inquiry report had been received, wherein the charges leveled against the petitioners have been found proved in the inquiry report dated 31.12.2011, with which the disciplinary authority is in agreement and accordingly, the major punishment of dismissal from service in terms of Rule 14(1) of Appendix I of UP Police Officers of

Subordinate Ranks (Discipline and Appeal) Rules, 1991 was proposed against the petitioner.

12. Therefore, from the aforesaid notice it is apparent there is no illegality in the said show cause notice issued against the petitioner and this court has also gone through the inquiry report dated 31.12.2011, wherein, after the conclusion of the inquiry report with regard to the guilt of the petitioner, the inquiry officer has recommended for the punishment of dismissal from service.

13. However, from the perusal of the Appendix I of Rule 14(1) of 1991 Rules, it is apparent that the inquiry officer has been assigned the duty to make the recommendation with regard to the proposed punishment on the basis of the guilt of a member of the discipline force and it provides that such recommendation shall be made separately. From perusal of the inquiry report, it is apparent that after the findings were recorded with regard to the guilt of the petitioner, the recommendation for the proposed punishment have been made separately. It is not the case of the petitioner that while issuing the show cause notice the disciplinary authority has shown his agreement with regard to proposed punishment, but the punishment was proposed in terms of Rule 4(1)(a) of 1991 Rules.

14. In such view of the matter, though, the copy of the reply to the show cause notice has been annexed along with the petition as Annexure 6 to the instant writ petition, however, neither it bears any date nor any acknowledgment to demonstrate that it was ever submitted by the petitioner before the impugned order was passed by the disciplinary authority. The disciplinary authority in the impugned order has categorically noted that no reply has ever been submitted by the petitioner prior to passing of the punishment order. In such view of the matter, it is concluded that the petitioner has failed to submit the reply to the show cause notice before passing of the punishment order by the disciplinary authority. In this view of the matter, this court finds that there is no illegality in the entire procedure adopted by the inquiry officer as well as by the disciplinary authority while passing the impugned orders against the petitioner whereby punishment of dismissal from service has been awarded to the petitioner.

15. From perusal of the show cause notice it is apparent that the disciplinary authority has not shown any agreement with the punishment proposed against the petitioner but has shown his agreement with the findings record by the inquiry officer which otherwise also a pre condition for the disciplinary authority unless he is satisfied with the findings recorded against the petitioner are correct and based on the logical evidence available on record. Unless that agreement is recorded by the disciplinary authority he cannot proceed to issue show cause notice, therefore, that agreement recorded by the disciplinary authority was a basic parameter for issuing show cause notice against the petitioner and it is also a pre-requirement while issuing such show cause notice to propose the punishment which can be awarded against the petitioner. Therefore, there was no illegality in the show cause notice issued to the petitioner. However, since the petitioner has failed to respond to the said show cause notice, therefore, the disciplinary authority has rightly concluded that the petitioner has no explanation to offer against the findings recorded by the inquiry officer or against the proposed punishment to be awarded to the petitioner. In such view of the matter there is no illegality in the punishment order awarded to the petitioner.

16. In the judgement of Jai Mangal Ram (supra) it is apparent that the Court has not noticed the Appendix I of Rule 14(1) of the Rules, 1991, which categorically provides that the inquiry officer can recommend the punishment. In such view of the matter, the said judgement would not be applicable to the facts of the instant case. The other judgements in the case of Krishna Kumar Mishra (supra) and Umesh Babu (supra) relied upon by the learned counsel for the petitioner are not applicable to the facts of the instant case.

17. For the reasons aforesaid, the instant petition fails and is hereby **dismissed.**

(Anish Kumar Gupta,J.)

August 4, 2026

o.k.